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PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10,046,045
	Filing Date	1/16/2002
	First Named Inventor	Kapple, Howard
	Art Unit	3761
	Examiner Name	Truong, Linh T.
	Attorney Docket Number	USPA-0045
Total Number of Pages in This Submission		37

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks Petition to Withdraw Holding of Abandonment on behalf of H. Kapple.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Law Office of Jay R. Hamilton, PLC.		
Signature			
Printed name	Jay R. Hamilton		
Date	11/20/2004	Reg. No.	50,644

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name	Jay R. Hamilton	Date	11/20/2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
Kapple, Howard)	
)	Examiner: Truong, Linh T.
Serial No.: 10/046,045)	
)	
)	
Filed: 1/16/2002)	Art Unit: 3761
)	
)	
For: Precision Aid)	
)	

Commissioner of Patents
United States Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant Howard Kapple requests through his attorney Jay R. Hamilton, that the Commissioner of Patents withdraw the holding of abandonment issued and mailed on 9/20/2004 for patent application number 10,046,045 titled "Precision Aid".

STATEMENT OF FACTS: PROSECUTION TIMELINE

Applicant through his attorneys states the following in support of this petition and the prosecution of patent application 10,046,045 ('045):

- 1) Applicant previously attempted to represent himself in front of the patent office in a pro se manner and filed a patent application on January 16, 2002. (See Fig. 1: Applicant's Filing Receipt)

- 2) A notice to correct papers was issued by the Initial Patent Examination Division and mailed 2/13/2002. (See Fig. 2: Notice to File Corrected Application Papers – 1st page) The patent application was assigned a serial number of 10,046,045 ('045) and a filing date of 1/16/2002 was given to the patent application. (Fig. 2)
- 3) Applicant responded to the Notice to File corrected papers on 3/18/2002. (See Fig. 3: Applicant's Filing Receipt for Notice to File Corrected Application Papers)
- 4) Applicant received confirmation of grant of a foreign filing license on 4/15/2002. (See Fig. 4)
- 5) Thereafter, a Notice of Publication issued and was mailed to applicant on July 17, 2003. (See Fig. 5)
- 6) An office action on the '045 application was mailed on 9/23/2003. (See Fig. 6: Office Action for #10,046,045 – first two pages only)
- 7) Thereafter, applicant attempted to respond *Pro Se* to the issues in the office action. The response was sent by certified mail on November 6, 2003. (See Fig. 7: Certified Mail Receipt & Receipt for Payment for Certified Mail)
- 8) Upon receipt of this response, the patent response was assigned a NEW patent application number of 10, 705,678 ('678) by the Patent Office. Proof of filing and assignment is supported by Fig. 8 – Applicant's Filing Receipt for Response mailed 11/6/2004.
- 9) Thereafter, it is not clear what exactly took place, but it appears from applicant's filing receipt that he again attempted a proper response. This response was also assigned a NEW patent application – 10,792,671 different from either '045 or '678 with a new filing date of 03/04/04. (See Fig. 9: Applicant's Filing Receipt 10,792,671)
- 10) Applicant was then mailed a Notice to File Missing Parts of a Non-Provisional Application on May 26, 2004 for patent application '678. (See Fig. 9B: Notice to File Missing Parts of Nonprovisional Application – 1st page only)
- 11) Applicant thereafter sought the services of his present attorney on June 16, 2004 to assist with prosecution of applicant's patent application.

- 12) On July 6, 2004 applicant's attorney faxed directly to Examiner Linh Troung correspondence including proper declarations and power attorney forms requesting a teleconference so that the issue of the THREE pending patent applications before the office could be properly resolved and proper amendment filed on behalf of the applicant for patent application '045. (See Fig. 10: Applicant's Attorney Correspondence with Examiner – 15 pages)
- 13) Along with this information applicant's attorney filed proof of mailing in response to the office action mailed September 25, 2003 and proof of receipt by the Patent Office on November 12, 2003 in prosecution of patent application 10/046,045. (See Fig. 10: Applicant's Attorney Correspondence with Examiner pages 10-12)
- 14) The correspondence also made it clear that applicant was interested in proceeding forward only with the '045 patent application and the previous responses filed by him were attempts by him, working on his own, to proceed forward with this application. (See Fig. 10: Applicant's Attorney Correspondence with Examiner pages 2-3)
- 15) Applicant's attorney also asked that application prosecution history be reviewed immediately so an accurate date for filing an amendment addressing the examiner's objections and rejections could be determined and complied with. (See Fig. 10, page 2-3)
- 16) Thereafter, applicant received another Notice to File Missing Parts of Non-Provisional Application mailed on 07/28/2004 for patent application 10,792,671. (See Fig. 11: Notice to File Missing Parts of Nonprovisional Application – page 1 only)
- 17) Applicant's attorney then sought to discuss the matter with the patent examiner by telephone with only partial success. Sometime during August 2004 Examiner Truong was placed on administrative leave, further explaining the lack of correspondence from the Patent Office.
- 18) Applicant's attorney was then mailed a Notice of Abandonment on 9/20/2004. (See Fig. 12: Notice of Abandonment pages 1&2)

ARGUMENTS

Applicant's actions as supported his filing with the patent office do not support the conclusion that he has abandoned his invention or his patent application. From applicant's actions, it also does not appear that he intentionally missed a filing or response date as required by the United States Patent & Trademark Office. In fact, Applicant made two (2) separate good faith attempts to respond to the office action issued by the examiner and mailed September 23, 2003 in prosecution of the '045 patent application. Each response was filed in a timely manner. Each response was incorrectly categorized as a "NEW" application by the patent office with the resultant effect being that review on the merits of his response to the office action mailed on 9/23/2003 never took place.

Because no response has issued based on his submission of November 6, 2003, prosecution of the '045 patent application was effectively suspended.

Upon concluding that his responses to the office actions were not being properly handled in the patent office, applicant diligently sought the services of a registered patent attorney. The patent attorney filed critical information with the patent office examiner soon after in a good faith attempt to resolve the issues and continue with prosecution. This communication process was then further complicated by the examiner going on or being placed on administrative leave.


CONCLUSION

The actions and or responses listed above do not indicate a lack of diligence by the applicant or his attorney and instead support the conclusion that a combination of administrative errors and difficult circumstances, many of which were beyond the control of the applicant, resulted in the holding of abandonment.

Applicant respectfully requests that the holding of abandonment in the 10,046,045 ('045) patent application be withdrawn and that his attorney receive an appropriate amount of time to file a proper response to the office action mailed on 9/23/2003.

In consideration of this request, and in compliance with 37 CFR 1.18(e), applicant has not included a patent term adjustment form or fees. Should the Commissioner determine it is warranted in this situation, application to any term adjustment and payment to fees. Additionally, if the holding of abandonment is withdrawn in patent application 10,046,045, applicant requests that the other two patent applications (10,705,678 & 10,792,671) now pending be terminated and any fees paid by applicant as required by the Office and related to these applications be refunded.

Respectfully Submitted on Behalf of Howard Kapple by,

A handwritten signature in black ink, appearing to read "Jay R. Hamilton", written over a horizontal line.

Jay R. Hamilton

#50,644

Dated 11/20/2004

TABLE OF ATTACHMENTS

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Fig. 4: Foreign Filing Grant Patent Application #10,046,045	v.
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Title page. And return post card. 18/7
Background. 20/7
- Summary. 33/7
- Description of the preferred embodiment 33/7
- Specifications 5/7
- 3/Claims-4-Prints 6/7
- Abstract.
Declaration. Form
Small entity Form
Transmittal letter
Fee form and check
Information disclosure statement. ?
Print #1
Print #2
Print #3
Print #4
2-photos.

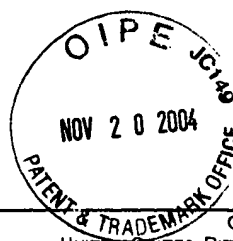


FIG. 1: FILING RECEIPT #10,048,045

(11)



UNITED STATES PATENT AND TRADEMARK OFFICE



COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/046,045	01/16/2002	Howard Kapple	

CONFIRMATION NO. 1620

FORMALITIES LETTER



OC00000007468397

Howard Kapple
1927 Fairmeadows Dr.
Bettendorf, IA 52722

Date Mailed: 02/13/2002

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Filing Date Granted

This application has been accorded an Application Number and Filing Date. The application, however, is informal since it does not comply with the regulations for the reason(s) indicated below. Applicant is given **TWO MONTHS** from the date of this Notice within which to correct the informalities indicated below. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a)

The required item(s) identified below must be timely submitted to avoid abandonment:

- A substitute specification in compliance with 37 CFR 1.52 because:
 - Line spacing on the specification, claims or abstract is not 1-1/2 or double spaced (See 37 CFR 1.52(b)).
- Substitute drawings in compliance with 37 CFR 1.84 because:
 - more than one figure is present and each figure is not labeled "Fig." with a consecutive Arabic numeral (1, 2, etc.) or an Arabic numeral and capital letter in the English alphabet (A, B, etc.)(see 37 CFR 1.84(u)(1));

A copy of this notice MUST be returned with the reply.

margaret
Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

FIG. 2: 10,040,045 NOTICE TO FILE CORRECTED PAPERS





Your notice to correct application papers

Return post card.

Background double spaced.

Summary double spaced.

Description of preferred document double spaced.

Specification of how to use. Double space.

3 claims-4 prints-With FIG. numbers.

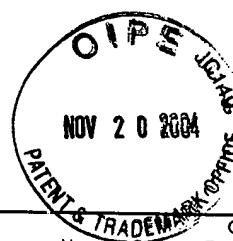
Abstract. Double spaced.



FIG. 3: APPLICANT'S RESPONSE TO NOTICE TO FILE



UNITED STATES PATENT AND TRADEMARK OFFICE



COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
10/046,045	01/16/2002	3763	370		4	3	3

CONFIRMATION NO. 1620

UPDATED FILING RECEIPT



OC000000007867196

Howard Kapple
1927 Fairmeadows Dr.
Bettendorf, IA 52722

Date Mailed: 04/15/2002

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Howard Kapple, Bettendorf, IA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted 02/13/2002

Projected Publication Date: 07/17/2003

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Precision aid

Preliminary Class

604

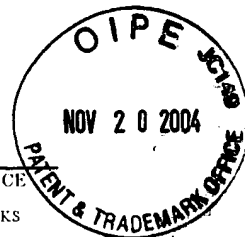
LICENSE FOR FOREIGN FILING UNDER

FIG. 4




UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov



APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/046,045	01/16/2002	Howard Kapple	

Howard Kapple
1927 Fairmeadows Dr.
Bettendorf, IA 52722

CONFIRMATION NO. 1620



OC000000010509663

Title: Precision aid

Publication No. US-2003-0135170-A1
Publication Date: 07/17/2003

Date Mailed: 07/17/2003

NOTICE OF PUBLICATION OF APPLICATION

The above-identified application will be electronically published as a patent application publication pursuant to 37 CFR 1.211, et seq. The patent application publication number and publication date are set forth above.

The publication may be accessed through the USPTO's publicly available Searchable Databases via the Internet at www.uspto.gov. The direct link to access the publication is currently <http://www.uspto.gov/patft/>.

The publication process established by the Office does not provide for mailing a copy of the publication to applicant. A copy of the publication may be obtained from the Office upon payment of the appropriate fee set forth in 37 CFR 1.19(a)(1). Orders for copies of patent application publications are handled by the USPTO's Office of Public Records. The Office of Public Records can be reached by telephone at (703) 308-9726 or (800) 972-6382, by facsimile at (703) 305-8759, by mail addressed to the United States Patent and Trademark Office, Office of Public Records, Alexandria, VA 22313-1450 or via the Internet.

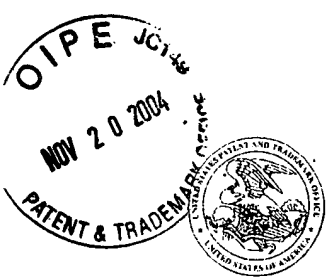
In addition, information on the status of the application, including the mailing date of Office actions and the dates of receipt of correspondence filed in the Office, may also be accessed via the Internet through the Patent Electronic Business Center at www.uspto.gov using the public side of the Patent Application Information and Retrieval (PAIR) system. The direct link to access this status information is currently <http://pair.uspto.gov/>. Prior to publication, such status information is confidential and may only be obtained by applicant using the private side of PAIR.

Further assistance in electronically accessing the publication, or about PAIR, is available by calling the Patent Electronic Business Center at (703) 305-3028.

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Initial Patent Examination Division (703) 308-1202

FIG. 5

(vi)



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,045	01/16/2002	Howard Kapple		1620

7590 09/25/2003
Howard Kapple
1927 Fairmeadows Dr.
Bettendorf, IA 52722

EXAMINER

TRUONG, LINH T

ART UNIT	PAPER NUMBER
----------	--------------

3761

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

FIG. 6 - PAGE 1



Office Action Summary

Application No.	Applicant(s)	
10/046,045	KAPPLE, HOWARD	
Examiner	Art Unit	
Linh Truong	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:



7003 1680 0004 7771 2348

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ALEXANDRIA VA 22313

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Postage	\$ 0.83
Certified Fee	\$2.30
Return Receipt Fee (Endorsement Required)	\$0.00
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$ 3.13

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Commissioner for Patents

Street, Apt. No.,
or PO Box No.

City, State, ZIP+4

PS Form 3800, June 2002

See Reverse for Instructions

11/06/2003 09:20:23 AM

1824160374-0097

(563)332-6164

11/06/2003

Bettendorf Postal Store
BETTENDORF, Iowa
527229998
1824160374-0097
11/06/2003 (563)332-6164 09:20:23 AM

Product Description	Sale Qty	Unit Price	Final Price
ALEXANDRIA VA 22313			\$0.83
First-Class Certified			\$2.30
Label Serial #: 70031680000477712348			=====
Issue PVI:			\$3.13
Total:			\$3.13
Paid by:			
Cash			\$5.00
Change Due:			-\$1.87

Bill#: 1000301314455
Clerk: 11

Refunds only per DMM P014
----- Thank you for your business -----
Customer Copy

FIG. 7

IX



1. Title page and return post card.
2. Background
3. Summary
4. Discription of the preffered embodiment.
5. Specifications
6. 3 Claims
7. Abstract.

1/1

22389 U.S. PTO
10/705678



FIG. 8:





1. Title Page
2. Background
3. Summary
4. Description of the preferred embodiment.
5. Specification of how to use and description of the invention.
6. 3 Claims.
7. Abstract.

17510 U.S. PTO
10/792671



030404

1/7

FIG. 9



Law Office of Jay R. Hamilton, PLC
Registered U.S. Patent Attorney
Attorney at Law Licensed to Practice in Iowa and Illinois
4300 E. 53rd St. Suite 103 Davenport, IA 52807
Tel (563)441-0207 • Fax (563)441-2781

FAX COVER SHEET

TO: USPTO
FAX: 703-872-9306

FROM: JAY R. HAMILTON – REGISTERED U.S. PATENT ATTORNEY
FAX: 563-441-0175

RE: Howard Kapple RE: Pat. Appl. #10,046,045 AND Pat. Appl. #10,705,678

NOTES:

Enclosed is necessary correspondence to represent Mr. Howard Kapple in prosecution of Patent Applications 10/046,045 and 10/705,678. I am requesting the examiner contact as convenient to discuss moving forward with prosecution of the noted patent application(s). If this transmission has processed to the wrong office, please let me know at 563-441-0207 where this information should be filed.

Regards,

Jay R. Hamilton
#50,644

SHEETS ENCLOSED (INCLUDING COVER) 14

CALL 563-508-1658 IF THIS TRANSMISSION IS UNCLEAR OR UNDELIVERABLE

PRIVATE AND CONFIDENTIAL

FIG 10: PAGE 1 of 15





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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/046,045

01/16/2002

Howard Kapple

1620

33512

7590

09/20/2004

LAW OFFICE OF JAY R. HAMILTON, PLC
4300 E. 53RD ST.
SUITE 103
DAVENPORT, IA 52807

EXAMINER

TRUONG, LINH T

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 09/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

108 - 308 - 1412

FIG. 12: PAGE 1 OF 2

XXIX



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
Kaple, Howard)	
)	Examiner: Truong, Linh T.
Serial No.: 10/046,045)	
10/705,678)	
10/792,671)	
)	
Filed: 1/16/2002)	Art Unit: 3761
11/12/2003)	
03/04/04)	
)	
For: Precision Aid)	
)	

Dear Ms. Truong:

Applicant's attorney submits the enclosed information in support of the Howard Kaple's previously filed "Pro Se" patent applications:

1. A Power of Attorney and Correspondence Address Indication form for patent application #10,046,045;
2. A declaration for Utility or Design Patent Application for patent application #10,046,045;
3. A Power of Attorney and Correspondence Address Indication form for patent application #10,705,678;
4. A declaration for Utility or Design Patent Application for patent application #10,705,678;
5. Proof of Mailing of the Office Action on September 25, 2003;
6. Proof of Mailing November 6, 2003;
7. Proof of Receipt by the Patent Office 11/12/2003;
8. Proof of Receipt by the Patent Office 03/04/2004 and assignment of #10/792,671;

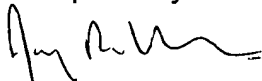
FIG. 10: PAGE 2 OF 15

I am in the process of reviewing Mr. Kapple's materials and assembling a revised patent application and response to the office action cited by you in the office action of September 25, 2003.

After discussing the matter with Mr. Kapple, it is clear that he is only interested in prosecuting one patent application – #10/046,045 – filed on 1/16/2002. All responses previously filed by him were attempts by him, working on his own, to proceed forward with this application.

Because of the rather difficult history of this case, and potential past administrative difficulties in the prosecution process, I would ask that you give this case your immediate attention so that an appropriate filing date can be determined for the revised patent application and response to the office action for patent application – #10/046,045 – filed on 1/16/2002. I would also request that you contact me, as time permits, to discuss the case telephonically.

Respectfully Submitted on Behalf of Howard Kapple,



Jay R. Hamilton

#50,644

FIG. 10: PAGE 3 OF 15



PTO/SB/81 (06-04)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**POWER OF ATTORNEY
and
CORRESPONDENCE ADDRESS
INDICATION FORM**

Application Number	10/046,045
Filing Date	1/16/2002
First Named Inventor	Howard Kapple
Title	Precision Aid
Art Unit	3763
Examiner Name	Truong, Linh T.
Attorney Docket Number	USPA-0046

I hereby appoint:

☒ Practitioners associated with the Customer Number:

33512

OR

☐ Practitioner(s) named below:

Name	Registration Number
Jay R. Hamilton	50,644

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.

Please recognize or change the correspondence address for the above-identified application to:

☐ The address associated with the above-mentioned Customer Number:

OR

☒ The address associated with Customer Number:

33512

OR

☐ Firm or Individual Name Law Office of Jay R. Hamilton, PLC

Address 4300 E. 53rd St.

Address Suite 103

City Davenport

State IA

Zip 52807

Country USA

Telephone 563-441-0207

Fax 563-441-0175

I am the:

☒ Applicant/Inventor.

☐ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

SIGNATURE of Applicant or Assignee of Record (if assignee, put name, title and company name in the "Name" space below)

Name Howard Kapple

Signature *Howard Kapple*

Date July 6, 2004

Telephone 563-355-4621

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☒ *Total of 2 forms are submitted.

This collection of information is required by 37 CFR 1.31 and 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

FIG. 10: PAGE 4 OF 15

X vi



**DECLARATION FOR UTILITY OR
DESIGN
PATENT APPLICATION
(37 CFR 1.63)**

☐ Declaration Submitted With Initial Filing OR ☒ Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16 (e)) required)

Attorney Docket Number	USPA-0046
First Named Inventor	Howard Kapple
COMPLETE IF KNOWN	
Application Number	10/046,045
Filing Date	1/16/2002
Art Unit	3763
Examiner Name	Truong, Linh T.

I hereby declare that:

Each inventor's residence, mailing address, and citizenship are as stated below next to their name.

I believe the inventor(s) named below to be the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Precision Aid

(Title of the Invention)

the specification of which

☐ is attached hereto

OR

☒ was filed on (MM/DD/YYYY) 01/16/2002 as United States Application Number or PCT International

Application Number 10/046,045 and was amended on (MM/DD/YYYY) (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

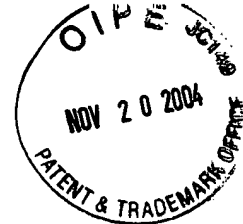
I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached?	
				Yes	No
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Xvii



Auto-Reply Facsimile Transmission



TO: Fax Sender at 563 441 0175

Fax Information
Date Received: 7/6/2004 12:22:30 PM [Eastern Daylight Time]
Total Pages: 14 (including cover page)

ADVISORY: This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.

Received
Cover
Page

=====>

Jul 06 04 11:22a	Jay R. Hamilton	563-441-0175	p. 1
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Law Office of Jay R. Hamilton, PLC
Registered U.S. Patent Attorney
Attorney at Law Licensed to Practice In Iowa and Illinois
4300 E. 53rd St. Suite 103 Davenport, IA 52807
Tel (563)441-0207 • Fax (563)441-2781

FAX COVER SHEET

TO: USPTO
FAX: 703-872-9306

FROM: JAY R. HAMILTON - REGISTERED U.S. PATENT ATTORNEY
FAX: 563-441-0175

RE: Howard Kapple RE: Pat. Appl. #10,046,045 AND Pat. Appl. #10,705,678

NOTES:

Enclosed is necessary correspondence to represent Mr. Howard Kapple in prosecution of Patent Applications 10/046,045 and 10/705,678. I am requesting the examiner contact as convenient to discuss moving forward with prosecution of the noted patent application(s). If this transmission has processed to the wrong office, please let me know at 563-441-0207 where this information should be filed.

Regards,
Jay R. Hamilton
#50,644

SHEETS ENCLOSED (INCLUDING COVER) 14

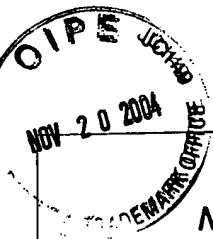
CALL 563-506-1658 IF THIS TRANSMISSION IS UNCLEAR OR UNDELIVERABLE

PRIVATE AND CONFIDENTIAL

PACK 1/14 - 8/1/04 12:22:30 PM Eastern Daylight Time - FAX 703-872-9306 - FAX 563-441-0175 - DURATION 00:00:00

FIG. 10: PAGE 15 OF 15

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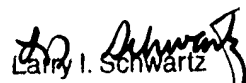
Notice of Abandonment

Application No.	Applicant(s)	
10/046,045	KAPPLE, HOWARD	
Examiner	Art Unit	
Linh Truong	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 23 September 2003.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:


Larry I. Schwartz
Supervisory Patent Examiner
Group 3700

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.





UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
--------------------	------------------------	-----------------------	------------------------

10/792,671

03/04/2004

Howard Kapple

HOWARD KAPPLE
1927 FAIRMEADOWS DR
BETTENDORF, IA 52722

CONFIRMATION NO. 3153

FORMALITIES LETTER



OC000000013361802

Date Mailed: 07/28/2004

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
Applicant must submit \$ 770 to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).
- The oath or declaration is missing.
A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **\$900** for a Large Entity

- **\$770** Statutory basic filing fee.
- **\$130** Late oath or declaration Surcharge.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

FIG. 11 - PAGE 1

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